

## METROPOLITAN AREA PLANNING COMMISSION

### MINUTES

June 7, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, June 7, 2001 at 1:30 p.m. in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; James Barfield (late arrival); Elizabeth Bishop; Dorman Blake; Kerry Coulter; Bud Hentzen; Bill Johnson, Richard Lopez; Ron Marnell; and Ray Warren. Frank Garofalo, John W. McKay, Jr.; George Platt and Harold Warner were not present. Staff members present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner, Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner; and Karen Wolf, Recording Secretary.

**MICHAELIS** "Are there any items on the Subdivision agenda that need to be pulled? Okay. Is there anyone in the audience wishing to speak on any of the Subdivision items? In that case, we can take all of the items in one motion."

1. Subdivision Committee items 1/1, 1/2, 1/3, 1/4, 1/5, and 1/6 were approved subject to the Subdivision Committee recommendations. **MARNELL** moved, **COULTER** seconded the motion, and it carried unanimously (9-0).

- 1/1. **SUB2001-00049** — (INSERT DESCRIPTION FROM AGENDA REPORT) One-step final plat of SPOTSWOOD ADDITION, located on the north side of MacArthur Road, west of Greenwich Road.

#### (INSERT STAFF REPORT FROM TIDEMARK OR WHAT CHERYL SENDS)

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. The applicant proposes sewage lagoons for 8 lots. Health Department should comment on floodway reserve constraints. A site layout is requested for Lot 7, Block 1.
- B. City Water and Sewer Department has required a petition for future extension of City water and sewer services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A flood study is required. A minimum pad elevation needs to be established. A drainage reserve is required between Lots 6 and 7.
- E. The plat's text shall denote the creation of the floodway reserves in addition to including the standard floodway language.
- F. The applicant shall dedicate 30 feet for street right-of-way and reference said dedication in the plat's text.
- G. The diameter of the turnaround should be increased to 150 feet to conform with Subdivision Regulations.
- H. County Engineering needs to comment on the access controls. The plat proposes one access opening along MacArthur Road for Lot 1, Block 2. One opening is approved.
- I. The plat shall be included within one block. Lot 1, Block 2 should be labeled as Lot 8.
- J. The applicant shall guarantee the installation of the proposed street to the 36-ft rock suburban street standard. County Fire Department has required that the street be installed prior to the issuance of building permits.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. On the final plat tracing, the MAPC signature block needs to reference "J.D. Michaelis, Acting Chair".
- N. The County Commissioners signature block needs to only reference the Chair.
- O. The applicant is advised that if platted, the building setbacks must be 35 feet along MacArthur Road to conform with the Zoning setback standard for County section line roads.
- P. Approval of this plat will require a waiver of the lot depth to width ratio for Lot 4, Block 1. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee has approved the modification,
- Q. The County Fire Department needs to comment on the plat's street names. County Fire Department has recommended 39th Court South.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- AA. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

-----

- 1/2. **SUB2001-00011**- final Plat of IMBLER ESTATES (Formerly Havener Addition, located on the northeast corner of 69<sup>th</sup> Street North and 151<sup>st</sup> Street West.
- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. The Applicant proposes sewage lagoons for 17 lots (over 4.5 acres) and

septic systems for 33 lots.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage plan. A Master Lot Drainage Plan has been received.
- D. County Engineering needs to comment on the need for improvements to perimeter streets. No improvements are required.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. County Fire Department needs to comment on the street names. 143<sup>rd</sup> St. West shall be renamed as 142<sup>nd</sup> or 144<sup>th</sup> Street West.

The street name was changed as requested; however GIS additionally has requested N. 72nd Ct. be renamed as 72nd Ct. N., N. 70th Ct. be renamed as 70th Ct. N. And N. 70th Cir. be renamed as 70th Cir. N.

- G. Several lots at the terminus of cul-de-sacs do not meet the 200-ft lot width requirement which is measured at the building setback line. The Subdivision Committee has granted a modification.
- H. The Applicant shall guarantee the installation of the proposed interior streets to the suburban street standard.
- I. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- J. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- K. The recording information for all pipeline easements shall be indicated on the face of the plat.
- L. The plat's text shall delete language referencing "3<sup>rd</sup> Avenue".
- M. County Surveying has requested additional center line data.
- N. County Surveying has requested additional lot dimensions.
- O. References in the plat's text to Kansas Division of Water Resources need to be revised.
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the

applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- V. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell and Sedgwick County Electric Cooperative has requested additional easements.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

-----

**1/3.     SUB2001-00037 – Final Plat of GLOBAL ENGINEERING ADDITION, located on the east side of 151<sup>st</sup> Street West, south of Kellogg.**

- A. Municipal services are available to serve the site, which include public water services from either Goddard or the City of Wichita. City Engineering needs to comment on the need for guarantees or easements.
- B. If public water is provided from Goddard, the Applicant shall submit a letter from Goddard indicating if any requirements need to be satisfied for the use of these services.
- C. City Water and Sewer Department has required connection to the City of Wichita upon extension of the water main in 151<sup>st</sup> St. West.
- D. City Water and Sewer Department has required a petition for extension of City water services.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- F. City Engineering needs to comment on the status of the applicant's drainage plan. An off-site drainage easement is required. An off-site sewer easement may be required.
- G. County Engineering needs to comment on the access controls. The final plat shall reference the access controls in the plat's text. County Engineering has approved one access opening.
- H. The sign and concrete pad shall be removed from the right-of-way.
- I. The KGE easement needs to be located.
- J. County Engineering has required a paving petition to guarantee improvements for 151st Street West from US-54 Highway to the south line of the plat.
- K. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator

(Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

-----  
**1/4. SUB2001-00040** – Final Plat of SOUTHRIDGE ACRES ADDITION, located on the east side of Ridge Road, north of 47<sup>th</sup> Street South.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. A site plan should be submitted for Lots 1 and 4.
- B. City Water and Sewer Department has required a petition for future extension of City water and sewer services.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. County Engineering has requested a revised flood study. The applicant will need to establish minimum pad or lowest floor elevation. A Floodplain Development Permit is required and possible DWR application pursuant to K.S.A. 24-126. The floodway reserve should be located along the side lot lines.

- E. The plat shall dedicate complete access control along the plat's frontage to Ridge Road.

The requested access controls have been dedicated.

- F. The applicant shall guarantee the installation of the proposed street to the suburban street standard. County Fire Department has required the installation of the street prior to issuance of any building permits.
- G. The street guarantee shall include the installation of a temporary turnaround at the terminus of 44th Street South at the plat's east line. The temporary turnaround shall be established by separate instrument and denoted with a radius on the face of the plat.
- H. The applicant shall provide a 35-ft off-site dedication of street right-of-way abutting the north line of the plat in order to provide a full street right-of-way for 44th Street South.
- I. The applicant is advised that if platted, the building setbacks may be 30 feet to conform with the Zoning setback standard for rural roads.
- J. The applicant has indicated a blanket easement for the area involved in this plat. The applicant shall either

obtain a release of this easement or provide proof that the easement has been confined. If confined, any portion of this easement impacting this site shall be denoted on the plat and shall be properly referenced. A recorded copy of the release/confinement of the easement shall be submitted.

- K. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- L. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The waiver has been approved.
- M. The County Fire Department needs to comment on the plat's street names. The street names are acceptable.
- N. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

-----

- 1/5. **SUB2001-00054** – One-Step final Plat of PAY DAY ADDITION, located north of 47<sup>th</sup> Street South, west of Broadway.
- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for guarantees or easements. An off-site drainage easement is needed.
  - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
  - C. City Engineering needs to comment on the status of the applicant's drainage plan. A drainage guarantee is

required.

- D. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- E. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #60) and its special conditions for development on this property.
- F. The gas pipeline setback indicated on the plat shall be labeled as a "Building Setback Line for Cities Service Gas".
- G. The gas pipeline easement needs to be located.
- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

-----  
1/6. **DED2001-00013** – Dedication of a 25-foot and a 15-foot Utility Easement from Builder's, Inc., for property located west of Meridian Avenue, north of Pawnee.

OWNER/APPLICANT: Builder's Inc., 1081 S. Glendale, Wichita, KS 67208

LEGAL DESCRIPTION: The south 25 feet of the west 235 feet of Lot 2, and the east 15 feet of the west 235 feet of Lots 1 and 2, all in Block 2, Southwest Industrial Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-53, and is being dedicated for the construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

-----

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

do not conduct their own additional public hearings on these items.

[REDACTED]

if any impact that information may have on your opinion of the request.

[REDACTED]

**ZONING:**

2. (INSERT FROM AGENDA) [REDACTED] – (INSERT FROM STAFF REPORT) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(INSERT FROM STAFF REPORT IN TIDEMARK)

[REDACTED] s Pawn Shop located at the northeast corner of Pawnee and Hillside.  
[REDACTED] s pawn shop.



[REDACTED]

[REDACTED]

entirely enclosed with buildings, solid screening or a 10-foot chain-link fence.

[REDACTED]

[REDACTED]

**CASE HISTORY:** Elmwood Second Addition was platted in 1954.

**ADJACENT ZONING AND LAND USE:**

NORTH: "B" Multi-family Residential; residence  
SOUTH: "LC" Limited Commercial; auto repair and strip retail  
EAST: "LC" Limited Commercial; retail  
WEST: "LC" Limited Commercial; retail convenience store

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Surrounding zoning is either "LC" Limited Commercial or "B" Multiple-family Residential. There is one residence abutting the application area. With the exception of the car repair use located south of the application area, all of the commercial uses in this [REDACTED] clean up the appearance of the repair use.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "LC" Limited Commercial, which permits a wide range of uses and the site could probably be put to a permitted "LC" use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: In addition to outside storage, the "GC" district permits a number of more intensive uses that are not permitted in the "LC" district. Development standards (height, setbacks) area also different in the "GC" district when [REDACTED] image for the larger neighborhood.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Plan depicts this site as appropriate for commercial uses, however the plan does not distinguish between "LC" and "GC" zoning. But Strategy III.B5 indicates that outdoor sales, highway oriented uses and non-retail
5. Relative gain to the public welfare as compared to the loss of value or hardship imposed on the applicant: Although the applicant indicates that he needs this use, he has not indicated any specific hardships to continuing his business without this use. The visual impact of this proposed outdoor use will hurt the image of this part of the city and hamper efforts to improve this area.
6. Impact of the proposed development on community facilities: None identified.

**MILLER** "This is a item that you heard previously, I think back in February. It is a request for 'GC' zoning, located on the northeast corner of Pawnee and Hillside back behind Aces' Pawn Shop. If you remember from that previous meeting, the applicant takes in vehicles on pawn and then when people redeem them, of course they get them back, but in the meantime, he has to store them on site. Based on the slide here that you can see, currently the property where he is doing the storage is zoned 'LC', so that is not an allowed use. The actual pawnshop sits on this property (indicating), the storage is here (indicating). That is the reason why he is asking for the 'GC' zoning, is to have the outside storage. There is a transmission shop located to the south of this, and there is a home located north of pawnshop.

Since the last meeting—the deferral basically was to give him the opportunity to check out his options in terms of finding another site where he could store the vehicles, or perhaps build an enclosed building—which would make it an allowed use in 'LC' if it was all inside. What he has done is built a concrete wall along here (indicating) and along the east line so that the vehicles are pretty much shielded from Pawnee. There are a couple of gates. It is kind of hard to tell, but I think there is one there (indicating) and one there. That is a concrete wall with a brick pattern.

**WARREN** "Is that right there the concrete wall that is there now?"

**MILLER** "Correct. That is the concrete wall. I believe that is the wall of the existing building that is on that northern third of the building (indicating). So that is what is out there today. As you may recall as part of the discussion, one of the things that was suggested was that he might want to go in with other pawn shops who take automobiles in and kind of have a collective storage arrangement, but the issue that he had with that apparently every site that is owned by a pawn operator has to have a pawn shop license. That license currently costs \$500. So it would increase the cost of his doing business to have a remote site.

Then I don't know if there was an issue with the inspectability. He is required to be able to show the material that he takes in on pawn to the police, I guess so they can check and see if it is stolen, but I am assuming that as long as it is inventoried and he can explain what he has and they can go to the site and look at it that that would make it work. I didn't actually talk with the Police Department about it, but those were issues that came up at the last meeting, if you recall that discussion.

Staff's current position has remained unchanged. We still think that 'GC' is probably not a good situation to have, given the 'LC' on all of the other corners. So we are still not recommending approval, but should the Commission feel like this is an appropriate request, on Page 3 of the original staff report, we are recommending that if you recommend approval that it be subject to conditions that basically even though it be zoned 'GC', it is restricted to those uses permitted by right in the 'LC' district, plus the vehicle storage, and that any vehicles that are stored there must be complete, visually intact and operable, and that no salvage activities or outdoor work would be able to be done on the site.

He indicates, I think, that there has only been one vehicle that he has taken in on pawn that he has had to sell and he does not sell them from this location. He takes them to an auction location and they sell the vehicles there. He can tell you more about that.

We did go to the DAB meeting and had a discussion Tuesday night and they voted 8-0 to recommend denial, although, to be honest, part of the discussion that they had had to do with that I had a hard time convincing them about how the restrictions would work. In their mind, if he gets 'GC', he can do anything that is allowed in 'GC'. I am not sure I ever convinced them that it only restricted him to 'LC' plus the vehicle storage.

The other more rational objection was that they felt like 'GC' was there, and if, at some point in the future, he decides to retire or something, then that 'GC' is on the map, then that is just going to trigger somebody else to come in and say 'well he has 'GC' here and I want it here', and that would loosen it up and eventually allow for more intense uses in the area. I think those were the primary objections that they indicated there. So with that, I will be happy to answer any questions if I can."

**BISHOP** "The area where the wall is, but the subject goes all the way to the sidewalk?"

**MILLER** "Yes, he did leave about a 30 foot space in front. The wall would be about 30 foot removed from the property line so that he has maneuvering room and he has parking requirements where he needs to be able to have parking. Yeah. There is the fence and then you are back about 30 feet—that is where the wall is."

**BISHOP** "But the 'GC' request is for all of it?"

**MILLER** "Well, I guess that could be subject to, but it doesn't make sense, really, just to stop it. We have some of those situations from older times, and that has sometimes been a problem."

**BISHOP** "But I guess what my question basically is, would that allow for outdoor storage behind the chain link fence but in front of the masonry wall."

**MILLER** "Yes, if you approve 'GC' all the way out to the front, then theoretically, he could store stuff out here, yeah. So I guess, from that standpoint, it might make sense, if it was approved, to restrict it. It would probably be easier to do it with a Protective Overlay. Just add it to the conditions of approval, I guess."

**KROUT** "Or you could control it through the Protective Overlay if that was your concern. Outside storage would still have to be screened from view in 'GC' but outside sales or display, unless it was restricted by the PO would be permitted outside the fence."

**WARREN** "Dale, I didn't have an opportunity to look up the zoning on that type of fence. I was surprised that in 'LC' you can build a solid fence all the way out almost to the setback line. Is that proper in our regs? I noticed something here that he didn't have a permit for the fence."

**MILLER** "Yes, I guess based on the information we have, the contractor did not get a building permit or a fence permit, or whatever permit they issue."

**WARREN** "I look at it and see that it gives a visual restriction if you are moving from the west/east to that center that sets back there. It almost hides that center that is to the east of him. That center would have a visual restriction if someone were riding up Pawnee from the west. In the smaller communities, we don't have the right to go out and build a fence."

**KROUT** "If it is 30 feet back from the property line, there is a zoning setback for a building to be as close as 20 feet from the property line."

**WARREN** "So what you are saying is that that fence would be considered a structure and would be legal?"

**KROUT** "Yes, it would be legal for him to keep it—I don't know why it would—but it would be legal, even if he didn't have the 'GC' zoning. Unless there is a platted 35-foot setback, then I think that that fence would probably would be encroaching 5 foot into the setback. We used to do a lot of 35-foot setbacks with plats. I don't know if you recall whether this has that or not, Dale."

**MILLER** "I don't know."

**KROUT** "We have eliminated having to reduce the setback to 20 feet in a front yard, so if it is a 20-foot zoning setback that is controlling, then there is nothing that would prohibit him from putting up the fence or building that close to the property."

**BISHOP** "I drove by this today, as a matter of fact, and the fence is oddly designed. It is not all masonry. It is sort of masonry for a little while and then it is wood, kind of stockade."

**MILLER** "Those are the gates. The gates are the non-masonry portion."

**BISHOP** "Okay. There seemed to be a lot of them, so there must be a lot of gates there."

**MILLER** "I think there are two sets of double, swinging, I believe."

**BARFIELD** "I guess my question is are we saying that the only reason he has filed for a zone change was because of the requirement in 'LC' that it had to be enclosed?"

**MILLER** "Correct. You can't store vehicles there under the 'LC' district, so his choice was to either build a building where he could put them inside or to ask for a different zoning that permits vehicle storage."

**BARFIELD** "I am not that familiar with pawn shops, but I don't ever recall seeing a pawn shop that had an enclosed storage area for vehicles."

**MILLER** "Probably not. I can't think of one myself. I don't know how many of them actually take vehicles in on pawn. It is getting more popular."

**KROUT** "The one that I am thinking of that is on Oliver, south of Pawnee has a large front yard that has a lot of vehicles, equipment, buses and things out there."

**WARREN** "But that is zoned 'GC'."

**KROUT** "Yeah, and that is because that owner is saying that that owner is saying that those are all for sale and display on that site. That is why he is able to not have a screening fence."

**BARFIELD** "Well, but enclosed means a roof, as it stated here."

**MILLER** "Right. He has to have walls, plus a roof."

**KROUT** "Even in 'LC' district. If he has General Commercial zoning and it is just stored, it has to be screened like he screened it, but it doesn't have to have a roof over it. It is outside and it is permitted, if you approve the 'GC' zoning and the City Council approves it."

**LOPEZ** "Are you viewing that masonry wall strictly as screening and not enclosure?"

**MILLER** "It doesn't meet the definition of a structure of an enclosed building."

**LOPEZ** "Okay."

**MICHAELIS** "Are there any further questions of the staff? Thank you, Mr. Miller. May we hear from the applicant, please?"

**JAROLD LEWIS** "Thank you. I am the owner of the property. The reason we put the concrete fence up was because we thought the Planning Commission asked for screening on the fence. I got the impression that that might help our application, but I was worried about security, so what I did was to come in 3 feet off of the property line on the east and then set back 30 feet off of the front and put a concrete fence. That way, if anybody did try to break in to harm the cars or to steal from the cars, they would not only have to go over the chain link fence, but the concrete fence, too. We thought that that would probably stop them.

There is no wood on there, those are metal gates. They are 8 foot each and there are two 8 foot at each one. There are two openings, 16 feet wide. I have no desire to sell cars—I have no desire to turn into a pawnshop like what is over on Oliver. I take pride in my neighborhood. All I am interested in—and you guys can leave the front 'LC'—all I am interested in is storing cars behind the concrete wall. I will never have anything in the fence area for storage. I might park a car there until I get the gates open to move it back in, but that would be the only time. That would be empty at all times. You could limit me to numbers. You are more than welcome, if you would approve this, to limit the outside to absolutely no storage out there—absolutely none. I am just interested in being able to store behind the concrete wall. I am just trying to pawn cars and trucks, no boats, no trailers, nothing like that.

I apologize that my contractor didn't get a permit. I didn't know about that until Dale sent me this notice. I would have made sure that he did that. Other than that, I don't want to 'junk up' my neighborhood. Like I said, I take pride in my neighborhood. I am just interested in being able to evolve into a larger pawnshop so we can stay in business. Our other loans have decreased because there are other pawnshops in town, and this way, we can be more competitive. We can be a fuller service store."

**COULTER** "Do you plan on enclosing the top of the roof, or would you consider that?"

**LEWIS** "I would rather not. One, the expense, and if I could just get by with storing inside. I wouldn't have put up the wall if I would have thought about a building. I was misdirected when I first started that if I just had a wall and

put a carport over it, that would be enough. But then I found out from Mr. Miller that that is not true. So I really don't want to have to put up a building because it would just be cost-prohibitive."

**HENTZEN** "If we could leave the zoning 'LC', would you be willing to take down that chain-link fence out front?"

**LEWIS** "If that needs to be done, yes, sir."

**HENTZEN** "I went by there, and it seems to me that that just junks up the place."

**LEWIS** "I put up the chain-link fence to keep people out from getting into the cars, but if that was the case, yeah, I would. It was just for security, is what it was."

**MICHAELIS** "Are there any other questions of the applicant? Okay, thank you, Mr. Lewis. Is there anyone else in the audience wishing to speak in favor of, or in opposition to this item? Seeing none, I will bring it back to the Commission."

**WARREN** "I have a real problem with this case. We looked at it before and I haven't seen very much that has changed my opinion on it. I have a different opinion from the applicant, having to do with being a good neighbor and the aesthetics of this. I think what he has created there is anything but aesthetically pleasing, particularly with the two fences setting out there. I think his use certainly is worse than a used car lot, and is as bad as a salvage yard. I think we are setting a precedent whereby we will see more outside storage with pawnshops. I am not sure that is such a good idea, either."

If it is a fact that \$500 in another location would solve this problem, I think it is a pretty cheap price. A lot cheaper, even, than the fence that he built. So I am going to go with staff on recommending denial of this."

**BISHOP** "I need to report that I did speak with one of the neighborhood leaders in that area who told about the DAB meeting. I am also going to join Mr. Warren in opposing it. I think that if any of you have ever driven along the Elmwood Street, I would invite you to do so. It is an absolutely lovely street with some very, very nice homes, and that area is being challenged with a lot of the commercial development along Pawnee. They are trying very hard to maintain the neighborhood, and I think this, unfortunately, would be a step in the wrong direction."

**MARNELL** "I looked at this the last time, and I would admit that I haven't seen the concrete fence, but what occurred to me the last time was that across the street there is a repair facility. I went down through that area after hours, and I know they are different uses, but the vehicles parked and stored at this site were certainly in better condition and better organized than what was right across the street at the repair facility. This didn't look to me, at that time, that this was anything real detracting. It just looked normal. I understand that it violated the 'LC' zoning, whereas the repair facility across the street did not. But certainly, with that chain link fence—from the view that I see—looks awfully strange. But if that was removed, and nothing allowed to be out there, then to me, this seems like a good use of the area for supporting an existing small business in that area. I am going to support the applicant with those kinds of conditions."

**JOHNSON** "Marvin, the applicant made a comment that if there was canopy over part of this if that would be classified as a structure. Is that true?"

**KROUT** "The problem is that in 'LC' it has to be fully enclosed in a building and a carport or a canopy is open."

**JOHNSON** "But if you went in the corner of this area and put a canopy in the corner...."

**KROUT** "Could you store under that canopy?"

**JOHNSON** "Right. From a building permit standpoint, you have to get a permit for a canopy, so does that make it a building?"

**KROUT** "You know....if you would like to delay this and go on to the next case or two, we could get someone from Central Inspection to give us an interpretation. I don't want to say it is a gray area, but I wouldn't want to speculate without consulting with them. Dale, do you have a better idea of what this may or may not be?"

**MILLER** "No, I don't, other than that we were just trying to clarify that I think the original question was if he built a carport, would that work, and we were trying to explain that it would need to be enclosed."

**KROUT** "No, a carport wouldn't work."

**MILLER** "Scott, you may want to call somebody in Central Inspection and see if we can get somebody to come up here."

**KROUT** "Kurt Schroeder may be available, if not, get Randy Sparkman."

**JOHNSON** "I have driven by this and I have driven by the one on Oliver. It appears that we are going to have these types of businesses. It is a business. But I don't like the chain link fence. I think if it was gone and if he didn't store anything outside of that wall, I guess it would be okay."

**BARFIELD** "I would like to pose a question to Mr. Warren. Is your major objection to this is that storage would occur outside, and that we would probably be getting into more of this?"

**WARREN** "By and large, these are not very high-class cars. By and large, these are pretty low-grade automobiles. They are not maintained in any manner. They gather dust and whatever gets on stored cars. So, I guess I just look at how much trouble it is to get a used car facility put in and how much trouble it would be to get a salvage yard. I look at these sitting there week after week, month after month quite often, and I suppose in a condition whereby maybe they can't even be sold because they are being held for some condition of a loan, maybe, I look at as the worse kind of storage facility. More so, like I say, than even salvage. Of course, there is no doubt in my mind that I am influenced a little bit by the one over there on Oliver. I think that is atrocious. I think that guy has no respect for neighbors or for the visual part. I don't think he cares, and it is obvious.

This isn't as bad as that, but I do think we have a lot of pawn shops in this town and if we start having outside storage of vehicles, we are going to have a lot of what we are seeing here."

**BARFIELD** "I think we already have that, though. That is already in place."

**WARREN** "Well, but I am not sure it is legal."

**BARFIELD** "I have a question for the applicant. I have two questions for him. How many vehicles do you anticipate you will have at any one time?"

**LEWIS** "The maximum of 18. That is all I could store behind the concrete wall."

**BARFIELD** "What is the approximate average time that those vehicles would be stored there?"

**LEWIS** "Normally, it is anywhere between one and six weeks. But if I may, while I am here, to address what was said about the Elmwood. You are right, that is a beautiful area. I approached all of the people that were on the list that had to be informed. I talked to all of them and they all gave me signed letters that they would be in favor of this. Also, all of the businesses. I contacted the person that owns the property and the business next to it before I ever even put up the fence to find out if they would have an objection to it.

I even offered for the TV Repair place to put a pole and a sign inside the chain link fence on my side of the property to give him added incentive and he said he was fine. But I did approach them before I put up the concrete wall to make sure it was okay with them. I also talked to the church. Everybody who is on that list gave me a signed affidavit that they would be in favor of the rezoning. I know that it doesn't matter, but I have over 980 signatures of customers that have come in that said they wouldn't not be opposed to this either."

**HENTZEN** "Were you at the District Advisory Board meeting?"

**MILLER** "That was the meeting we were at the other night."

**LEWIS** "Oh, yes, sir, I was."

**HENTZEN** "And with all of the approvals you just talked about, they still voted 8-0 to deny?"

**LEWIS** "I didn't talk to them about the approvals. I didn't say anything about it. I didn't know about the meeting until just before it, and then I went over there and talked to them and told them about how I care about my neighborhood, like I said, but I never even thought to mention that."

**BARFIELD** "Were there any residents, sir, at that meeting who spoke in opposition to this?"

**LEWIS** "No, sir. And the resident who lives just next door, Titus, he also gave me a signed affidavit that he wouldn't be opposed to this."

**MICHAELIS** "Okay, thank you. Do we now have an interpretation on the question?"

**KURT SCHROEDER** "Good afternoon. I am with Central Inspection. Did you have some questions I might answer? I am not too familiar with the case."

**JOHNSON** "What we are trying to determine is we have a piece of property that you could have storage inside. The owner has built a wall and I asked the question that if you built a canopy in the corner of this area, and it was closed in out of site as well as having a roof, would that be classified as a structure, or not?"

I am thinking of something similar to a mini-storage where there is an open-wall building where they back motor homes in. I don't think they can sit outside, they have to be under a roof. Is this the same kind of case?"

**SCHROEDER** "I think it is the same kind of thing. A roof structure of any kind would be considered a building or a structure by the Building Code. In fact, generally, I think our interpretation has been like when you have, near Home Depot or Lowe's you have the outdoor storage, generally, whatever is under the columns that support that roof structure is considered the building or the structure."

I think that there is always a question about what then is enclosed as it relates to the Zoning Code and how it relates to the screening, I guess, of that material. But we have considered it enclosed, generally, like on a garden center, if it has the columns, they are under roof, and then sometimes you will see the black mesh, or whatever, that is still enclosed for building structure purposes. Then we get into whether or not it is really screened appropriately. Does that clear it up?"

**KROUT** "So there can't be an open area between the screening wall and the bottom of the roof, is that what you are saying? It has to be enclosed with something as little as a mesh enclosure?"

**SCHROEDER** "No, the Building Code, Marvin, would define it as a wall that 60% of that could be—if that is filled in with an enclosure—60% of that space, it would make it a wall. So I guess we would call that enclosure. But then again, if the material or whatever they are storing is up above and visible, you have the screening issue from 'LC' district standards."

**KROUT** "So enclosed might mean as long as 60% of the face has a wall, the other 40% could be open between the wall and the roof?"

**SCHROEDER** "Yes. And the Building Code would call that an exterior wall of the building."

**MICHAELIS** "Are there any other questions for Mr. Schroeder? Okay, thank you, Mr. Schroeder."

**MARNELL** "On this particular case we are dealing with, I don't see a canopy adding anything to it. In fact, it probably would detract from it. The wall is going to screen—the wall is there. People will know what is behind it. With that in mind, I am going to make a motion."

(INSERT FROM MINUTES)

**MOTION:** I move that we recommend to the governing body that the request be approved, subject a Protective Overlay restricting the use of the land to the front. That the fence would be removed so there could not be storage on the street side of the fence. And that the other uses be the uses allowed in Limited Commercial zoning, meaning that the vehicle storage behind the concrete fence would be allowed.

**MARNELL** moved, **BARFIELD** seconded the motion.

**MICHAELIS** "Is there any discussion?"

**HENTZEN** "I would like to ask the motion-maker if he could live with not changing the zoning. I don't really see any reason for changing the zoning to 'GC', because all the rest of it all around it, on every corner is 'LC'. I don't want to vote for it if we are going to change the zoning."

**MARNELL** "Well, I think that is the crux of the whole problem. That is the reason they are here for the zone change, it is 'LC' now and you can't do this under 'LC'. That is why the applicant is here to begin with. So if we change it to 'GC' and then restrict it, then it gets the effective use, but is restricted by the Protective Overlay to just 'LC' uses with the exception of the cars behind the wall."

**HENTZEN** "What if he has to sell the property?"

**MARNELL** "It runs with the land. So even if it is zoned 'GC', but the only uses could be 'LC', with the exception of vehicles behind that fence."

**BARFIELD** "The way I see it is that the only way we could leave it 'LC' would be that he would have to construct a canopy."

**MICHAELIS** "Right."

**MARNELL** "I think that is going the wrong direction."

**JOHNSON** "I just want to make sure that the motion included that they are operable cars."

**MARNELL** "I would be willing to do that."

**WARREN** "I think the discussion the last time we heard this case was maybe that that City Ordinance, having to do with off site storage needed to be reviewed so that it would allow such a thing. I think that is where this thing needs to go. I don't think you want this kind of storage—and when you say operative—baloney. I don't think we can be assured that they are going to be operative. I don't think anybody has got enough inspectors to find that out. I see them out there with flat tires and everything else."

But I think that that ordinance needs to be looked at so that there can be maybe even common places you can take these cars and put them and not store them on site. I am going to stay with my denial."

**MICHAELIS** "Is there any further, relevant discussion?"

Laughter here.

**BARFIELD** "My response to that would be with this wall you won't be able to tell whether they are running or not, and you won't be able to tell how many vehicles are out there."

**WARREN** "I disagree with the wall."

**MICHAELIS** "Is there any further discussion?"

(INSERT FROM MINUTES)

**VOTE ON THE MOTION:** The motion failed with four in favor (Johnson, Michaelis, Barfield and Marnell) and 6 in opposition (Warren, Blake, Coulter, Bishop, Hentzen and Lopez).

**KROUT** "Assuming there is no other motion, that means that this case will be forwarded to the City Council unless you decide to withdraw the case. You won't have an opportunity to present your case to the Council, but they will review the minutes of the Planning Commission meeting and the District Advisory Board meeting and make a final decision in about a month. You will be notified."

**LEWIS** "Thank you."

-----  
**3a. Case No. ZON2001-00024** – Ralph A. Lanzrath Revocable Trust (owner); PEC c/o Rob Hartman (agent) request zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial, and

**3b. Case No. CUP2001-00015** – Ralph A. Lanzrath Revocable Trust (owner); PEC c/o Rob Hartman (agent) request the creation of DP-256 – The Collective C.U.P. on property described as:

Parcel 1: Lot 1, Block 1, Lanzrath First Addition to Sedgwick County, Kansas, except a tract in the Northeast Quarter of Section 10, Township 27 South, Range 2 East of the 6th P.M., described as: Beginning at the Northwest corner of Lot 1, Block 1, Lanzrath Addition, Sedgwick County, Kansas; thence bearing North 89 degrees 13'34" East along the North line of said Lot 1 a distance of 112.03 feet; thence bearing South 20 degrees 25'35" West a distance of 119.04 feet; thence bearing South 0 degrees 15'37" West a distance of 184.05 feet to a point in the South line of said Lot 1; thence bearing South 89 degrees 13'34" West a distance of 64.51 feet to the Southwest corner of said Lot 1; thence bearing North 0 degrees 59' 56" West a distance of 295.00 feet to the point of beginning.



Parcel 2: Lot 2, Block 1, Lanzrath First Addition to Sedgwick County, Kansas, except a tract in the Northeast Quarter of Section 10, Township 27 South, Range 2 East of the 6th P.M., described as: A tract of land in the Northeast Quarter of Section 10, Township 27 South, Range 2 East of the 6th P.M. described as: Beginning at the Northwest corner of Lot 2, Block 1, Lanzrath Addition, Sedgwick County, Kansas; thence bearing North 89 degrees 13'34" East along the North line of said Lot 2, a distance of 64.51 feet; thence bearing South 0 degrees 15'37" West a distance of 182.73 feet to a point in the South line of said Lot 2; thence bearing South 89 degrees 13'34" West a distance of 24.85 feet to the Southwest corner of said Lot 2; thence bearing North 0 degrees 59'56" West a distance of 295.00 feet to the point of beginning.

Parcel 3: Lot 3, Block 1, Lanzrath First Addition to Sedgwick County, Kansas, except a tract of land in the Northeast Quarter of Section 10, Township 27 South, Range 2 East of the 6th P.M., described as: Beginning at the Northwest corner of Lot 3, Block 1, Lanzrath Addition, Sedgwick County, Kansas; thence bearing North 89 degrees 13'34" East along the North line of said Lot 3 a distance of 24.85 feet; thence bearing South 10 degrees 43'08" West a distance of 122.34 feet to a point on the West line of said Lot 3; thence bearing North 0 degrees 59'56" West a distance of 119.89 feet to a point of beginning. Generally located on the southeast corner of K-96 and 21<sup>st</sup> Street North.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting the creation of a Community Unit Plan for the southeast corner of K-96 and 21<sup>st</sup> Street North.

This proposed C.U.P. contains 15.05 acres with five parcels. Parcel 1 (1.04 acres) and Parcel 5 (3.71 acres) are located along 21<sup>st</sup> Street North. Parcel 2 (2.70 acres) is located along Wawona Street, directly south of Parcel 1. The proposed uses for Parcels 1, 2, and 5 are those uses allowed in the "LC" Limited Commercial district except for the following exclusions: adult entertainment establishments, group houses, correctional placement residences, private clubs, taverns and drinking establishments.

Parcel 3 (2.83 acres) and Parcel 4 (3.99 acres) are located along the southern edge of the proposed C.U.P. The applicant has proposed additional restrictions on Parcels 3 and 4 because the adjoining property is zoned "SF-5" and developed with a residence on a 5-acre tract. Parcels 3 and 4 would be restricted to "NR" Neighborhood Retail uses. The applicant does not wish to restrict the size of the retail uses to 8,000 square feet per use since one of the potential uses is a large bookstore, but has offered to move restaurant use to the northern portion of the parcels.

The C.U.P. proposes one opening on 21st Street North and one opening on Wawona.

Maximum building coverage is shown at 30%, floor area ratio is 30 %, and maximum height is 35 feet. Setbacks of 35 feet are provided along K-96, 21<sup>st</sup> Street North, and Wawona. The setback is increased to 50 feet along the southern property line. A six-foot masonry screening wall would be built in a wall easement along the southern property line.

There are two existing ponds on the property to the south. The property drains to the southwest toward the ponds, via the drainage easement located between Parcels 3 and 4 to allow drainage to the ponds.

The applicant originally proposed that signs be in accordance with the Sign Code of the City of Wichita, but with two taller shopping center identification signs at 35 feet, and with entrance signs on each side of the two entrances that would not be subject to the 150-foot spacing required by the Sign Code.

The surrounding property is developing primarily with institutional uses. Trinity Academy, a private high school is located to the east. Messiah Baptist Church is across 21<sup>st</sup> Street North. Both properties on the west side of K-96 also are being developed with institutional uses, with Kensington Gardens Cemetery on the northwest corner of K-96 and 21<sup>st</sup>, and First Bible Baptist Church holding the property on the southwest of this interchange.

Four residences are located south of the proposed C.U.P., all on large acreages. The Burlington Northern right-of-way is approximately ¼ mile to the south.

**CASE HISTORY:** The area was platted as Lanzrath Addition on December 7, 1977.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"	Messiah Baptist Church
SOUTH: "SF-5"	Large-lot residential

EAST: "SF-5" Trinity Academy (private high school)  
WEST: "SF-5" Vacant

**PUBLIC SERVICES:** 21<sup>st</sup> Street North is designated as a five-lane arterial and K-96 is designated as a freeway on the transportation plan. Average daily traffic on 21<sup>st</sup> east of K-96 was 8,900 vehicles in 2000. This is projected to increase to 36,600 in 2030 because of significant growth projected for this area.

Water is available along 21<sup>st</sup> Street North. Currently, sewer is being extended along Wawona to serve Church of the Magdalen and would be available to serve the site.

A bike path winds along K-96 on the western edge of the proposed development.

**CONFORMANCE TO PLANS/POLICIES:**

The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area for commercial use. The commercial locational guidelines recommend that commercial uses should be located adjacent to arterial streets; in compact clusters; and to have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas. Office locational guidelines recommend location adjacent to arterial streets; local, service-oriented offices to be incorporated with neighborhood/community scale commercial development; and low-density office be used as a transitional land use between residential uses and higher intensity uses.

**RECOMMENDATION:**

The proposed application area is shown for commercial use on the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan, and is located on an interchange of K-96, making it a good potential location for commercial development. The site is surrounded by institutional uses except on the south where there are four residences.

The proposed development plan includes a 50-foot setback and a screening wall for the south property line. The applicant is willing to provide a landscape buffer of 1-½ times the Landscape Ordinance requirements for the southern boundary of Parcel 3 nearest the residence. Also, there are some mature evergreen trees on the adjoining property for additional buffering. Uses would be restricted to those allowed in the "NR" district. These restrictions improve the separation between the commercial uses and the residences to the south.

If developed with the amount of signage initially requested, signage would be considerably more than typical for new developments and would be in excess of that permitted by the Sign Code. However, the applicant has indicated that they did not intend to use all the signage requested. They desired to keep the two 35-foot signs, with one to be located along K-96 between Parcels 4 and 5, and the other to be located at the corner of 21<sup>st</sup> Street North and Wawona, and the entrance markers to be located on either side of the private entrance on 21<sup>st</sup> and on Wawona. The other freestanding signs would be monument-type signs with a height of 10 feet and size below 50 square feet.

While Staff and the applicant are still discussing details on signage, Staff recommends that the total number of signs be specified in the C.U.P. This number would reflect the additional height of two 35-foot signs and the entrance signs that would be classified as freestanding signs by the Sign Code. The applicant is willing to restrict the 35-foot sign along K-96 would be allowed within 450 feet of the southern property line, and it is recommended that no signs be allowed within 200 feet of the southern property line.

Proposed transportation improvements would be to add a decel lane from its current terminus on 21<sup>st</sup> Street North to Wawona, a southbound left-turn storage lane on 21<sup>st</sup>, and to improve Wawona to three-lane urban standards from 21<sup>st</sup> Street North to the private drive from the development.

Based on this, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2001-00024) to "LC" Limited Commercial.
- B. APPROVE the Community Unit Plan (DP-256), subject to the following conditions:
  1. Transportation improvements:
    - a. Extend the decel lane on 21<sup>st</sup> Street North from its current terminus at the eastern edge of the raised medial to Wawona Street.

- b. Provide a westbound left-turn storage lane on 21<sup>st</sup> Street North from the private drive entrance extending east of Wawona with 150 feet storage length plus taper.
    - c. Improve Wawona with continuous left-turn lane from 21<sup>st</sup> Street North to the southern edge of the private drive from the proposed development.
  2. Signage shall be restricted as follows:
    - a. Freestanding signs shall be limited to two 35-foot signs, one on K-96 and one on 21<sup>st</sup> Street North, and the remaining monument signs shall be limited to 10 feet in height and no more than 50 square feet in size. Total number of freestanding signs shall be per Sign Code on K-96 and 21<sup>st</sup> Street North, taking into consideration that the 35-foot signs are equivalent to three freestanding signs each. Freestanding signs on Wawona shall be limited to no more than one monument sign per parcel and no greater than 10 feet in height and 50 square feet in size.
    - b. No signs shall be located closer than 200 feet from the southern property line of Parcels 3 and 4 and the 35-foot sign shall not be located closer than 450 feet from the southern property line.
  3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  5. All property included within this C.U.P. and zone case shall be replatted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  6. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-256) includes special conditions for development on this property.
  7. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The majority of the property in the vicinity of the proposed development is zoned "SF-5" Single Family, but developed with institutional uses, including Trinity Academy to the east and Messiah Baptist Church to the north. Other institutional uses are planned on the west side of K-96, including another church and Kensington Gardens Cemetery. The property to the south is developed with four residences on 5-acre or greater tracts. On a larger scale, a similar mix of commercial and institutional uses are planned for development at the intersection of 127<sup>th</sup> Street East and 21<sup>st</sup> Street North approximately one-half mile to the east of the application area. All the corners of the intersection of Greenwich and 21<sup>st</sup> Street North are shown for future commercial use. This gives a commercial/institutional character to the intersection/interchange nodes along 21<sup>st</sup> Street North.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in "SF-5" low-density residential use, but the presence of the interchange of K-96 and the recommended commercial use of this tract by the Comprehensive Plan makes low-density use seem less appropriate.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change to commercial use would negatively impact the nearby residence to the south. This impact is mitigated by the restriction to "NR" Neighborhood Retail uses, the screening wall and landscape buffer, and the lack of a through street connection to the south to prevent through traffic movements traveling beyond the commercial development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request is in conformance with the Wichita Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan.

5. Impact of the proposed development on community facilities: Traffic increases can be anticipated by the commercial development in the range of up to 5,000 cars a day. The recommended transportation improvements should mitigate the impact of the traffic increases.

**MILLER** "This is a request for a Community Unit Plan to be located at the southeast corner of K-96 and 21<sup>st</sup> Street North on approximately 15 acres. The proposal, as you can see—and one of these is attached in your staff report—it is a five parcel Community Unit Plan that they are proposing. They are suggesting that Parcels 1, 2 and 5 would be zoned 'LC' except for the list of usual exclusions of: adult entertainment, group houses, correctional placement residences, private clubs, taverns and drinking establishments.

Parcels 3 and 4, at the bottom, would be restricted to 'NR' Neighborhood Retail uses. Even though the property would be zoned 'LC', the CUP would restrict it to 'NR' uses except that if it was just straight 'NR', the maximum size for retail stores is 8,000 square feet. I think restaurants are restricted to 2,000 square feet. They would ask for a waiver of that maximum size on those two parcels.

As you can see from the CUP, they are proposing access on 21<sup>st</sup> and access on Wawona, which ties in here (indicating). They would have 35-foot building setbacks on the west, north and east, and then along Parcel 3, it would be increased to 50 feet and then 35 here. There is a home that sets in this approximate location here (indicating) and that is the reason for the increased setback. They would also have a 6-foot masonry wall along the southern boundary of the property.

With respect to signage, what is in the staff report you can ignore because they submitted amended language with the drawing, and staff is comfortable with that. I am not sure which version you have, but we have come to an agreement on the signage. I think you have the correct version versus what is in the staff report. There are four residences located to the south of the proposed CUP. Twenty-first Street is designated as a five-lane arterial. There is water at 21<sup>st</sup> Street; sewer is being extended along Wawona up to serve the Church of the Magdalen, so there will be sewer service available to this site.

The 1999 update to the Wichita/Sedgwick County Comprehensive Plan indicates that this area is appropriate for commercial use and the plan also says that the commercial uses should be located adjacent to arterial streets in compact clusters and have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding areas.

Staff's recommendation is that the application be approved, subject to the conditions listed on Pages 4 and 5 with the exception of the sign stuff, which would be consistent with what is in the draft CUP.

At the DAB meeting, there were, as I recall, four individuals who spoke in opposition, primarily citing impact of the introduction of commercial uses into the area, and how that would detrimentally impact their residential uses, and that from their prospective, traffic will increase, noise and litter and all of the kind of objectionable things that come along with commercial development will hurt their investments. So they were concerned about that. I believe there is a DAB report at your location. At the DAB meeting, the applicant agreed to removing convenience stores and drive-through restaurants as a permitted use on the entire CUP. There was discussion about putting one and a half times the landscaping along that south Parcel 3 boundary line, but it was not ever clear to me if the property-owner accepted that. It was an offer made by the applicant, but from my impression, the property-owner would not accept it because they were going to have to do the maintenance. But the DAB staff report kind of indicates that that was the DAB's recommendation, so that may be something we ought to clarify here so that we know exactly whether that is going to be part of the condition or not.

As you can see in the next to last paragraph, the DAB members voted unanimously to approve it, subject to staff conditions and the agreement that the developer pay for trees used as screening, to be located on adjacent residences or properties with the permission of the residential homeowner and a prohibition of convenience stores and drive-through restaurants be added. With that, I will try and answer questions, if you have any."

**MICHAELIS** "Are there any questions of staff? Thank you, Mr. Miller. Applicant, please."

**ROB HARTMAN** "I am with Professional Engineering Consultants, here on behalf of the applicant. As Dale mentioned, we have a 5-parcel Community Unit Plan. We have met with the adjoining neighbors—the ones to the south in particular. We are concerned about the uses on Parcels 3 and 4, which adjoin their property. Through those discussions, we have agreed to, like Dale mentioned, increase the setback on Parcel 3, restrict the uses to Neighborhood Retail uses on those parcels. We are also restricting the use of restaurants from the south 150 feet of those parcels and then, as he mentioned at the DAB meeting, we agreed to restrict all convenience stores and drive-through restaurants on the entire property.

We have agreed to increase the landscape buffer on Parcel 3 to 1-1/2 times the City Code in addition to the 8-foot masonry wall that would be installed on the property line. We also made an offer to the adjoining landowner that we would provide additional landscape materials if he would want to plant them on his side of the wall to give him a softer look and a better screen. That way, he could pick the type of trees that he liked; he could put them exactly where he wants them, and he could maintain them to his preference and the property owner would not be subject to those different items.

On the signage, we are requesting two 35-foot tall signs, one on the northeast corner of the property at the corner of Wawona and 21<sup>st</sup>, and the second one about half way up the west property line along K-96. That sign would be restricted on the south 450 feet of the property so that it maintains a good separation to that residential development to the south. We are also asking for 10-foot monument signs, two for Parcel 4; two for Parcel 5, along K-96 and two 10-foot monument signs on Parcel 5 along 21<sup>st</sup> Street. Then one monument sign on Parcel 1, which is on the northeast corner; one for Parcel 2, and one for Parcel 3 with the restriction that no monument sign would be closer to the residential lots than 200 feet.

We are in agreement with the staff comments. Like I said, we met with the adjoining neighbors, the Messiah Baptist people said they were supportive of our project; the Trinity Academy was in support. We have met with the neighbors to the south several times, trying to work out agreements on the adjoining property line restrictions. I think I will open up for questions now."

**HENTZEN** "Rob, have you seen this letter from Mr. Brandorff regarding signs?"

**HARTMAN** "No."

**HENTZEN** "I will read the paragraph, and then you tell me if you included that. 'The developer has requested two 35-foot signs, one along K-96 and one at the corner of 21<sup>st</sup> Street Wawona Street. Our concern is with the latter sign'. Did you do anything about that last line?"

**HARTMAN** "No. I don't believe when we met with that gentleman that that was ever brought up. This is the first I have heard of it as far as that latter sign, the one at 21<sup>st</sup> and Wawona."

**HENTZEN** "Do you want that sign?"

**HARTMAN** "Yes, and I will let the developer speak after I am done, but that is very important to him, due to the fact that when you are on K-96, coming from the northwest, that point on the property is the highest point. Most of the property is actually screened from the view of K-96. That is about the only place where anybody coming from the northwest would be able to see a sign to know that there was a development there."

**HENTZEN** "Okay. Let me ask you. Do I understand that you are willing to provide some trees on the screening bit, but is it wise to allow this developer to plant trees on the adjacent property that he does not own or control? In other words, if some of the neighbors say no, and some of the neighbors say yes—talking about the adjoining—what the hell happens?"

**HARTMAN** "Yeah. He is going to plant trees on his side and there is only one property owner adjoining on the south. This may not have a whole lot of bearing in that the landowner has agreed to sell his property to the developer. It is not in writing right now, but to my understanding, they agreed yesterday that he would sell his property."

**MICHAELIS** "Are there any further questions of the applicant? Thank you, Mr. Hartman. Is there anyone else in the audience wishing to speak in favor of or in opposition to this item?"

**J.B. JOHNSTON** "I am the developer by default. Actually, I am a clothing retailer that is now in the development business also, I guess. What I would like to do is to pass around a colored drawing to you. Maybe you can get a better idea.

What this is a culmination of is about a 10-year dream of mine. I see the different phases of retail from downtown, a walking type district to suburban strip malls, then to enclosed malls, and back to strip malls again. I see this concept as a combination of a walking type area and a strip mall type area and a mall type area. It has small amounts of parking in the front of the buildings, and it has additional parking on the sides, similar to how they are building Outback Steakhouses and things like that.

What this does is a couple of things. No. 1, you don't see a big parking lot. No. 2, it makes you look busy, which is good for a retailer or a restaurant. It also provides a prettier place. That is one of my goals, to make a very pretty, nice place to shop at. I think that will draw customers to that area. You notice it has sidewalks between the buildings to encourage walking between the buildings; it has a couple of lakes that are required for drainage,

but we took them and we are going to enhance them with fountains and stone around them to make it look very nice. We put a lot more trees and shrubs on there instead of the square footage in buildings. We put way under the square footage of buildings that we could hold on that land because I wanted more green area and more green space to make it look nice. I do this because I plan on having my store there for 20 or 30 years. I have four boys and I think a couple of them seem interested in the business right now. That is my long-term plan and goal.

By the way, our store will be in the northwest corner there, an 18,000 square foot store. There will be a restaurant to the north of that, attached to our store. The bookstore will be in Lot 4, I think, to the very southwest corner. To the east of that you will see an office building and a restaurant. When we met with the neighbors, we agreed to move that restaurant out of there and move it between the bookstore and our store on K-96. So the whole area to the east of the bookstore will be office and act as kind of a buffer for the neighborhood. It should work out well for the development, too.

Then there will be another restaurant on the lake in the middle; a bank on the corner and three more pad sites, two on Wawona and one on 21<sup>st</sup> Street for retail. It is kind of a mixed-use type of office, retail and restaurants."

**MICHAELIS** "Are there any questions of the applicant?"

**BISHOP** "And the entire area will have a single name, which is what will be on the 35-foot sign?"

**JOHNSTON** "Yes. It will be 'The Collective'. What I want there is a triangular—a tall, skinny triangular sign that just has the collective written straight down it. Not a big neon sign or anything. I just want a locator-type point. If you come from the south, it lays out nicely because you can see right into it. The land goes up to where the bank is and it looks nice. If you come from the north, that is right where K-96 turns and the whole area is screened by the bridge that goes over 21<sup>st</sup>. So you really can't see it coming from there until you are already by it. That sign would give us some visual point that people could see."

**BISHOP** "The one at 21<sup>st</sup> and Wawona?"

**JOHNSTON** "Yes."

**BISHOP** "So the highway goes (indicating) like this?"

**JOHNSTON** "It goes the other way—goes back to the west—the north and west."

**BISHOP** "Okay. So you are going to be able to see that sign at 21<sup>st</sup> and Wawona from 4 blocks away?"

**JOHNSTON** "My main point was to see it from K-96 as you are coming like from Webb Road or Greenwich Road, around K-96. That was my main point. And you will probably only be able to see the top 5 foot of it, maybe. Does that makes sense?"

**BISHOP** "Well, one of the reasons I am asking these questions, Mr. Johnston, is because of the request from a resident, Mr. Brandorff and his concern about the sign at that location. I think it looks like a lovely development, but very big, tall signs are one of the things that tend to detract from nice developments."

**JOHNSTON** "Right, and I talked to Rick a couple of times when we met, and at that time, he didn't have any opposition to it. I am a bit confused as to why he didn't express it to me then. But it won't be a big sign. It will be kind of a totem pole type sign."

**BISHOP** "Lit?"

**JOHNSTON** "My original idea was to have the letters cut out and have lighting in behind it so that all that is lit is the light shining through the letters."

**BISHOP** "I was trying to get an idea of the curvature of the highway."

**JOHNSTON** "Right. And it goes pretty quick back to the west at that point."

**COULTER** "On the plan you just handed out, they showed three outlets onto a side street. Is there only going to be one? That is what the other plan we got showed."

**JOHNSTON** "We will have to see how it lays out. There probably will be three. The bank would probably want access to Wawona on the corner. The other thing is the office piece at the south end. I would guess that we would probably want another access point. They may not."

**MICHAELIS** "Okay. Are there any further questions? Thank you, sir. Is there anyone else in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition to it? Seeing none, we will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The majority of the property in the vicinity of the proposed development is zoned "SF-5" Single Family, but developed with institutional uses, including Trinity Academy to the east and Messiah Baptist Church to the north. Other institutional uses are planned on the west side of K-96, including another church and Kensington Gardens Cemetery. The property to the south is developed with four residences on 5-acre or greater tracts. On a larger scale, a similar mix of commercial and institutional uses are planned for development at the intersection of 127<sup>th</sup> Street East and 21<sup>st</sup> Street North approximately one-half mile to the east of the application area. All the corners of the intersection of Greenwich and 21<sup>st</sup> Street North are shown for future commercial use. This gives a commercial/institutional character to the intersection/interchange nodes along 21<sup>st</sup> Street North. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in "SF-5" low-density residential use, but the presence of the interchange of K-96 and the recommended commercial use of this tract by the Comprehensive Plan makes low-density use seem less appropriate. Extent to which removal of the restrictions will detrimentally affect nearby property: The change to commercial use would negatively impact the nearby residence to the south. This impact is mitigated by the restriction to "NR" Neighborhood Retail uses, the screening wall and landscape buffer, and the lack of a through street connection to the south to prevent through traffic movements traveling beyond the commercial development. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request is in conformance with the Wichita Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan. Impact of the proposed development on community facilities: Traffic increases can be anticipated by the commercial development in the range of up to 5,000 cars a day. The recommended transportation improvements should mitigate the impact of the traffic increases.) I move that we recommend to the governing body that the request be approved, subject to the following:

(INSERT FROM TIDEMARK IF MOTION INCLUDES CONDITIONS OF APPROVAL)

1. Transportation Improvements

- a. Extend the decel lane on 21<sup>st</sup> Street North from its current terminus at the eastern edge of the raised medial to Wawona Street.
- b. Provide a westbound left-turn storage lane on 21<sup>st</sup> Street North from the private drive entrance extending east of Wawona with 150 feet storage length taper.
- c. Improve Wawona with continuous left-turn lane from 21<sup>st</sup> Street North to the southern edge of the private drive from the proposed development.

2. Signage is as described in the language found in the May 31, 2001 CUP.

Department, or the request shall be considered denied and closed.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried unanimously with 10 votes in favor.

4. **Case No. ZON2001-00034** – Samuel J. Silver (owner); City of Wichita requests a zone change from “LC” Limited Commercial to “SF-6” Single-Family Residential on property described as:

**ZONE CHANGE FROM LC TO SF-6**

That part of the SW 1/4 of Sec. 20, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the S.W. Corner of said SW 1/4; thence N 01 degrees 02'36"W, along the west line of said SW 1/4, 400.13 feet; for a place of beginning, thence S 89 degrees 34'46"E, parallel with the south line of said SW 1/4, 400.13 feet; thence S 01 degrees 02'36"E, 400.13 feet to the south line of said SW 1/4; thence S 89 degrees 34'46"E, along the south line of said SW 1/4, 200.07 feet; thence N 01 degrees 02'36"W, 600.20 feet; thence N 89 degrees 34'46"W, 600.20 feet to the west line of said SW 1/4; thence S 01 degrees 02'36"E, along the west line of said SW 1/4, 200.07 feet to the place of beginning. Generally located approximately 400 feet north and east of Rock Road and 45<sup>th</sup> Street North.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The application area is an upside down “L” shaped tract containing 4.21 acres that is located approximately 400 feet north and 400 feet east of the intersection of Rock Road and 45<sup>th</sup> Street East. The application area is zoned “LC” Limited Commercial, but has been platted for single-family use as part of Sawmill Creek Addition. The “LC” zoning was established in the early 1960’s as part of the old checkerboard pattern of 600 foot by 600 foot (including road right-of-way) sized parcels located at the intersection of section line roads. The property owner has chosen to utilize only a 350 feet by 350 feet sized “LC” parcel, leaving the remaining 200 feet of “LC” zoned land to be platted for residential uses. As shown on the attached map, this layout leaves “LC” zoned single-family lots located across the street from predominately “SF-5” zoned lots. The “LC” district permits residential uses, however this layout creates the likelihood for a very undesirable mix of incompatible uses, traffic patterns, setback arrangements and screening requirements since the developer has not enacted a set of private covenants to privately address this issue. This situation also would leave streets developed at local residential street standards to serve commercially zoned lots. All of the lots within the application area are still under single ownership and the owner is agreeable to the zone change.

Abutting land is zoned either “SF-5” Single-family Residential or “LC” Limited Commercial or “LI” Limited Industrial. The “LC” zoned land is part of a retail commercial corner that is part of the applicant’s overall development plan. Land south of 45<sup>th</sup> Street is vacant while land to the west of Rock is vacant.

**CASE HISTORY:** Sawmill Creek Addition was recorded January 25, 2001.

**ADJACENT ZONING AND LAND USE:**

NORTH: “SF-5” Single-family Residential; vacant but platted for single-family residential use  
SOUTH: “LI” Limited Industrial; vacant,  
EAST: “SF-5” Single-family Residential; vacant but platted for single-family residential  
WEST: “LC” Limited Commercial; vacant

**PUBLIC SERVICES:** Sewer and water are available. Rock Road and 45<sup>th</sup> Street at this location are shown on the 2030 Transportation Plan as two-lane arterials.

**CONFORMANCE TO PLANS/POLICIES:** The “Wichita Land Use Guide” depicts this site as appropriate for low-density residential uses. The category provides for the lowest density of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions and planned developments with a mix of



housing types. This category also permits schools; churches and other similar uses are also permitted in this category.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The area is a mix of developed, developing and vacant land uses. There is an existing metal building (contractor), cemetery, oil storage tanks, and duplex homes under construction. There is a variety of zoning districts present ranging from single family through Limited Industrial.
2. The suitability of the subject property for the uses to which it has been restricted. The "LC" Limited Commercial district permits a wider range of uses and intensity of uses than is appropriate for a lot layout featuring urban density residential lots served by streets developed with residential street standards and residential setbacks.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: No negative impacts to nearby property are identified.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The request is consistent with the plan's recommendation for low-density residential use.
5. Impact of the proposed development on community facilities: None identified.

**MILLER** "Those of you who are on the Subdivision Committee may remember a while back that there was a plat that came through, Sawmill Creek. It is kind of hard to see, but there are streets laid out here. It is located at the northeast corner of 45<sup>th</sup> and Rock Road. The standard 600 x 600 'LC' square was in place at that time. For whatever reason, we didn't catch this portion here (indicating) where these residential lots would be, is going to be zoned 'LC'. So when the plat came through and we started noticing that, it really doesn't make for a real conducive single-family situation to have portions of lots or lots across the street to be zoned 'LC' from single-family. So staff—with the consent of the property owner—is initiating this in order to get those properties rezoned 'SF-5' so that we won't have the issue of the ability of a single-family structure to be built and then used as a place of business. For some reason they are doing a much smaller parcel than some people typically do. So we are just down-zoning it from 'LC' to 'SF-5' to be consistent with the proposed uses."

**MICHAELIS** "Are there any questions of staff? Thank you, Dale. Is the applicant here? It doesn't look like it. And there isn't anybody here to speak. Okay, then we will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. The area is a mix of developed, developing and vacant land uses. There is an existing metal building (contractor), cemetery, oil storage tanks, and duplex homes under construction. There is a variety of zoning districts present ranging from single family through Limited Industrial. The suitability of the subject property for the uses to which it has been restricted. The "LC" Limited Commercial district permits a wider range of uses and intensity of uses than is appropriate for a lot layout featuring urban density residential lots served by streets developed with residential street standards and residential setbacks. Extent to which removal of the restrictions will detrimentally affect nearby property: No negative impacts to nearby property are identified. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The request is consistent with the plan's recommendation for low-density residential use. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to staff comments.

**WARREN** moved, **LOPEZ** seconded the motion, and it carried unanimously (10-0).

- 
5. **Case No. A 01-08** - The City of Wichita seeks the annexation of properties generally located west of 119<sup>th</sup> Street West from South of 13<sup>th</sup> Street North to North of 21<sup>st</sup> Street North.

**MICHAELIS** "I think on this we just need to find that it is in conformance with the Comprehensive Plan."

**KROUT** "That's right."

**MICHAELIS** "So we will just need a motion to that effect."

**MOTION:** That the Metropolitan Area Planning Commission find the unilateral annexation compatible with the adopted Comprehensive Plan.

**BISHOP** moved, **COULTER** seconded the motion, and it carried unanimously (10-0).

6. Other Matters

**MICHAELIS** "Is there anything else? Any other matters?"

**KROUT** "For those of you who don't know, Richard (Lopez) has been around for more than 8 years, which we found out was legal after some investigation by the City's Law Office. He has been a good soldier and a good leader. If you remember, he was the Chair of the Planning Commission when we last updated the Comprehensive Plan. We had the workshop to kick off that process with Richard introducing three experts from outside of the community. After their workshop, I remember Mayor Knight telling me 'what makes you think anyone from New Jersey could tell us anything worthwhile about Kansas', at the next City Council meeting.

It has been good having him on the Commission. We have noticed that Richard's votes changed a little bit in the last year or so, but generally he has been a very thoughtful and sensitive member of the Planning Commission and we are sorry to see him go. I hope that he will stay involved in planning in Wichita."

**LOPEZ** "Thank you, I plan to. I have had a good run. I have enjoyed the meetings. Eighty per cent of my time for the last 10 years is a lot of time. I have met a lot of great people, and I have appreciated working with a lot of you and I have made some friends here. So I plan to stay involved in planning one way or the other. So thank you all."

The Metropolitan Area Planning Department unofficially adjourned at 2:45 p.m.

State of Kansas     )  
Sedgwick County    ) <sup>ss</sup>

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)